

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>EDWARD AND MONICA BROWN,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 65868</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 18, 2015, Sondra W. Mercier and James R. Meurer presiding. Petitioners, Monica and Edward Brown, appeared *pro se*. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**26851 Arbor Drive Aurora, Colorado
Arapahoe County Parcel No. 2071-21-3-01-010**

The subject is a two-story, single-family frame, stone, and stucco house located in the Beacon Point Subdivision in the City of Aurora, Arapahoe County. The house was constructed in 2006, and includes 4,196 square feet of above-grade living area. There is a 2,034 square foot unfinished basement, and a tandem three car garage. The roof is Spanish bar tile, HVAC is via gas forced air, and all utilities are publically provided. Per county records, the lot is irregular in shape, contains 21,980 square feet or 0.5 acres, and appears to be larger than typical for the neighborhood. The overall construction quality and condition of the property is reported to be good.

Petitioners are requesting an actual value of \$625,000 for the subject property for tax year 2015. Respondent provided an appraisal reflecting a value of \$700,000, and is recommending a reduction to \$700,000 from the Board of Equalization's (BOE) assigned value of \$789,000 for tax year 2015.

Petitioners, Monica and Edward Brown, testified that Respondent's assertion that the property benefited from a view of the Aurora Reservoir was incorrect. Petitioners further testified that their property did not back to open space, as indicated by Respondent, and that the adjustments for view, open space, and the square footage of the lot contained in Respondent's appraisal were inaccurate and without support. In addition to a drive-by appraisal on the property completed by an independent appraiser reflecting a value of \$595,000, Petitioners submitted additional comparable sales, trending information from Zillow, a parcel map, and photographs to support their argument that Arapahoe County had overvalued their property. Based on the arguments outlined above, specifically the issues surrounding lake view, open space proximity, and lot size, Petitioners concluded to a value of \$625,000 for the subject property for tax year 2015.

Relative to the valuation provided by the County, Respondent's witness, Ms. Melissa Scarborough of the Arapahoe County Assessor's Office, developed a market (sales comparison) approach and presented four comparable sales to support her opinion of value. All of the sales were located in the Beacon Point Subdivision, and sale prices ranged from \$552,400 to \$669,990 prior to adjustment, and \$680,723 to \$735,895 subsequent to adjustment. All of the sales occurred in the statutory base period. The significant adjustments to the sales consisted of date of sale (time), site characteristics (size view and location) construction quality, year of construction, gross living area, baths, basement and basement finish, garage, fireplaces, and decks/patios. With emphasis on all of the comparables and specifically Comparable No. 1 which is the most recent sale and required the least percentage adjustment, Ms. Scarborough concluded to a final value of \$700,000 for the subject for tax year 2015.

Ms. Scarborough testified that she was unable to do an inspection of the subject property, and that the adjustments in her appraisal, specifically for site size, view, and proximity to open space were based on data from the Assessor's Office, as well as a review of maps and aerial photos on the subject. Based on these data, Ms. Scarborough argued that the comparable sales used in her analysis and the adjustments to those sales accurately reflected the market value for the subject. Ms. Scarborough also testified that she reviewed the comparables provided by Petitioners, and after her adjustments referenced above were applied to those comparables, she arrived at a value of \$725,000 for the subject.

Petitioners presented sufficient probative evidence and testimony to prove that the tax year 2015 valuation of the subject property was incorrect.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent's comparable sales and the majority of the adjustments to those sales are supportable. However, the Board concludes that Respondent's adjustments for lake view, proximity to open space, and site size are without support, especially given that Respondent was unable to inspect the subject property. It became apparent to the Board during the testimony and after consideration of exhibits presented at the hearing that minimal, if any, view of Aurora Reservoir existed, that the property backed to the future greenbelt area of an adjacent subdivision rather than to open space, and that any benefit for the

larger lot size was offset by the reduced utility of the lot given its irregular shape and orientation. Eliminating the positive adjustment for each of Respondent's comparable sales for these three characteristics, results in adjusted values ranging from \$608,848 to \$710,737. Applying equal weight to all of the sales with emphasis on Comparable No. 1, the most recent sale with the lowest percentage adjustment (the same weight suggested by Respondent), the Board concludes that Petitioners' requested value of \$625,000 is supported.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$625,000.

The Arapahoe County Assessor is directed to change his records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 8th day of December, 2015.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

James R. Meurer

James R. Meurer

